

Karen A. Confoy
FOX ROTHSCHILD, LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648
Telephone: (609) 896-3600
Facsimile: (609) 896-1469
Attorneys for Defendant Merck Sharp & Dohme Corp.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: FOSAMAX (ALENDRONATE
SODIUM): PRODUCTS LIABILITY
LITIGATION**

THIS DOCUMENT RELATES TO:

*Zessin et al., v. Merck Sharp & Dohme
Corp.*

Civil Action No. 11-cv-3918 (JAP)(LHG)

Young v. Merck Sharp & Dohme Corp.

Civil Action No. 11-cv-3225 (JAP)(LHG)

Johnson v. Merck Sharp & Dohme Corp.

Civil Action No. 11-cv-5301 (JAP)(LHG)

**DOCUMENT FILED
ELECTRONICALLY**

MDL No. 2243

Master Docket No. 08-08 (JAP)

Civil No. 11-cv-3918 (JAP)(LHG)

Civil No. 11-cv-3225 (JAP)(LHG)

Civil No. 11-cv-5301 (JAP)(LHG)

**NOTICE OF MOTION
TO STRIKE DR. ROBERT MAKUCH FROM PLAINTIFFS' RULE 26(a)(2)
DISCLOSURE AND EXCLUDE HIS TESTIMONY AT TRIAL**

PLEASE TAKE NOTICE that the undersigned counsel will apply to the
above named Court on May 20, 2013, or as soon thereafter as counsel may be
heard, for an Order to Strike Dr. Robert Makuch from Plaintiffs' Rule 26(a)(2)

Disclosure and Exclude Him from Testifying at Trial in the above captioned matters.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, Merck relies upon the Declaration of Karen A. Confoy and accompanying exhibits, executed on April 17, 2013, and Memorandum of Law in support thereof, dated April 17, 2013.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

Oral argument is requested.

Respectfully submitted,

FOX ROTHSCHILD, LLP

By: /s/ Karen A. Confoy
KAREN A. CONFOY
kconfoy@foxrothschild.com

Attorney for Defendants
Merck Sharp & Dohme Corp.
(f/k/a Merck & Co., Inc.)

Dated: April 17, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April, 2013, I caused copies of the foregoing NOTICE OF DEFENDANT MERCK SHARP & DOHME CORP.'S MOTION TO STRIKE DR. ROBERT MAKUCH FROM PLAINTIFFS' RULE 26(a)(2) DISCLOSURE AND EXCLUDE HIM FROM TESTIFYING AT TRIAL, MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT MERCK SHARP & DOHME CORP.'S MOTION TO STRIKE DR. ROBERT MAKUCH FROM PLAINTIFFS' RULE 26(a)(2) DISCLOSURE AND EXCLUDE HIM FROM TESTIFYING AT TRIAL, and DECLARATION OF KAREN A. CONFOY and accompanying exhibits, to be served and filed electronically, pursuant to the Court's Case Management Order, via the Court's CM/ECF system and served via electronic mail on the following:

James A. Morris, Esq.
Edward Braniff, Esq.
Weitz & Luxenberg, P.C.
180 Maiden Lane, 17th Floor
New York, NY 10005
jmorris@weitzlux.com

James D. Cecchi, Jr. Esq.
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
6 Becker Farm Road # 301
Roseland, NJ 07068-1735
JCecchi@carellabyrne.com

David Buchanan, Esq.
Seeger Weiss LLP
77 Water Street
New York, NY 10005
dbuchanan@seegerweiss.com

/s/ Karen A. Confoy
Karen A. Confoy
kconfoy@foxrothschild.com